

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROGER B. SMITH,
Plaintiff,

v.

CONTRA COSTA COUNTY SHERIFF'S
DEPARTMENT, et al.,
Defendants.

Case No. 13-cv-01022-JST (PR)

ORDER OF DISMISSAL

Plaintiff, an inmate at the San Francisco County Jail, filed this pro se civil rights action under 42 U.S.C. § 1983 complaining that he was subjected to excessive force in July 2011 while incarcerated at the Martinez Detention Facility. The Court reviewed the complaint and determined that it stated a claim for an Eighth Amendment violation. The Court gave plaintiff leave to amend so that he could attempt to identify any of the allegedly misbehaving deputies, who he had only identified as John Doe defendants in his complaint. The Court also determined that the complaint did not state a claim against either of the two defendants for which plaintiff did provide names, i.e., the Contra Costa County Sheriff's Department and the Martinez Detention Facility. The Court directed plaintiff to file an amended complaint no later than July 31, 2013. The Court notified plaintiff that failure to state a claim against any named defendant would result in dismissal of the action without prejudice to filing an action against one or more of the Doe defendants if he ever learns their true identities.

On July 31, 2013, plaintiff filed a first amended complaint, again naming as defendants the Contra Costa County Sheriff's Department, the Martinez Detention Facility, and Doe Contra Costa Sheriff's Deputies. (Dkt. #6 at 7-8.) As was the case with his original complaint, plaintiff's first amended complaint fails to identify individual defendants and set forth specific facts showing how

1 each defendant proximately caused the deprivation of a federally protected right. See Leer v
2 Murphy, 844 F2d 628, 634 (9th Cir 1988.)

3 For the foregoing reasons, plaintiff's first amended complaint is DISMISSED. The
4 dismissal is without prejudice to plaintiff filing a new action once he ascertains the identity of the
5 deputies he claims violated his federal rights.

6 The Clerk is directed to terminate any pending motions as moot and close the file.

7 **IT IS SO ORDERED.**

8 Dated: November 26, 2013

9 
10 JON S. TIGAR
United States District Judge

United States District Court
Northern District of California